



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

PLEA BARGAINING: JUSTICE DELAYED OR JUSTICE COMPROMISED?

BALPREET KAUR BHATTI

ABSTRACT

Plea bargaining has emerged in India as a procedural mechanism intended to address the persistent problems of delay, overcrowded prisons and excessive criminal case pendency. Introduced through Chapter XXI-A of the Code of Criminal Procedure, 1973 and continued under Chapter XXIII of the Bharatiya Nagarik Suraksha Sanhita, 2023, the framework permits an accused to seek a mutually satisfactory disposition in exchange for a reduced sentence, subject to judicial supervision and statutory safeguards. This paper examines whether plea bargaining genuinely promotes timely justice or risks compromising the rights of the accused, victims and society. It evaluates the statutory framework, constitutional dimensions and judicial approach, particularly in relation to voluntariness, legal representation, speedy trial, self-incrimination and fair procedure. The paper also considers comparative experiences from the United States, England and Wales, and Germany to identify safeguards relevant to the Indian context. Although plea bargaining offers potential benefits such as reduced judicial burden, quicker resolution, compensation and limited sentencing outcomes, its actual use in India remains extremely low. The paper argues that delay alone cannot justify increasing plea bargaining without addressing the conditions influencing an accused's decision. Stronger legal assistance, custody review, transparent prosecutorial discretion and systematic record-keeping are necessary to ensure that efficiency does not come at the cost of justice.

PLEA BARGAINING: JUSTICE DELAYED OR JUSTICE COMPROMISED?

BALPREET KAUR BHATTI

I. INTRODUCTION

The first fact about Indian criminal courts is delay. Prison Statistics India 2022 recorded 75.8 per cent of all prisoners as undertrials, in prisons running at 131 per cent of capacity. In July 2026, the Law Minister told the Rajya Sabha, citing the National Judicial Data Grid, that 5.64 crore cases were pending across Indian courts. Against that background, a procedure that lets an accused person admit guilt in return for a lighter sentence appeals to nearly everyone involved. The court clears a file, the prosecution secures a conviction, and the accused ends years of uncertainty.

The question in the title asks whether that remedy is worth its price. Supporters treat plea bargaining as the cure for delay. Critics treat it as a cheap route to conviction, paid for with the truth, with the victim's interest, and with the right of an accused person to a trial that he might have won. Both camps have evidence on their side.

India came to the practice late and with reluctance. In the 1970s, the Supreme Court condemned it. In 2006, Parliament inserted *Chapter XXI-A* into the *Code of Criminal Procedure, 1973*, and the *Bharatiya Nagarik Suraksha Sanhita, 2023* now carries the scheme forward in *Chapter XXIII*. Use has been small. Of the 1,70,52,367 cases tried in 2022, 19,135 ended in a plea bargain, which is about 0.11 per cent.

This paper argues that the title poses the choice *too starkly*. Whether plea bargaining delays *justice or compromises* it depends on the conditions in which the accused decides. Indian law contains formal safeguards of some strength. But they operate on people who are often already in custody and often thinly advised, and in those conditions a voluntary plea is harder to guarantee than the statute suggests.

Three questions guide the inquiry. Does the Indian scheme reduce delay in any measurable way? Do its safeguards protect the voluntariness of the accused's choice in the conditions where pleas are actually made? And what changes would keep the procedure's benefits while

limiting its risks? The working hypothesis is that the answers are, in order, only marginally, not reliably, and changes to advice, custody review and record-keeping.¹

II. WHAT PLEA BARGAINING IS

Plea bargaining is *a negotiated disposal of a criminal case*. The accused gives up the *right to a full trial by pleading guilty* and *receives a concession in return*, usually a lighter sentence and sometimes a reduced charge. Writers usually distinguish three forms. In charge bargaining, the accused pleads guilty to a lesser offence than the one first alleged. In sentence bargaining, the charge stays as it is and the prosecution or the court agrees to a milder punishment. In fact, bargaining, the parties agree to leave certain facts out of the record, which can keep a case below a statutory threshold.

Indian law recognises mainly the second form. The Chapter speaks of a “*mutually satisfactory disposition*” and then fixes the sentence by reference to the minimum or maximum punishment for the offence charged. The parties *cannot rewrite the charge* between themselves.

A plea bargain is *not the same thing* as a plain plea of guilty. Criminal procedure has long allowed a court to convict an accused who admits the offence without any promise of leniency, and a court may treat the admission as a mitigating fact when it sentences. What marks a bargain is the exchange. The accused pleads because something has been offered, and the court is asked to approve both the plea and the price. The Law Commission’s early proposals depended on the same distinction, as Part III explains. The exchange is also the source of every objection discussed below.

The reasons to agree are easy to list. The prosecution gets a conviction without proving the case through witnesses who may turn hostile or fail to appear. The court saves sitting time. The accused avoids the risk of a heavier sentence after trial, along with the cost and strain of years of hearings. Some scholars describe this exchange as a market in which each side prices its risks, and *Frank Easterbrook* defended the practice in those terms. *Robert Scott and William Stuntz* applied contract theory to it and treated weak representation and similar defects as market failures. Others reject the market picture altogether. *John Langbein* compared modern

¹ Chauhan AR and Yadav DrR (*Advanced International Journal for Research (AIJFR)*) <<https://www.aijfr.com/papers/2026/3/5702.pdf>> accessed 5 October 2026

plea practice with the medieval law of torture, because both obtain confessions by making the alternative frightening.²

The comparison with *torture is harsh*, but it points at the question that matters here. A discount is a discount only against a penalty that the accused believes may follow trial. Everything later in this paper turns on how real that penalty is, and on whether the State's own delay is part of what makes the alternative frightening.

Two theories of punishment explain why the practice draws such different reactions. On a *utilitarian view*, punishment is justified by its effects. A procedure that secures a conviction cheaply, deters as well as a trial would and frees resources for other cases is easy to defend. On a *retributive view*, punishment must be deserved, and desert is established by a finding of guilt made after the State has proved its case. A bargain replaces the finding with an admission and the sentence with a price, so the retributivist asks whether the offender receives what he deserves or only what he agreed to. Neither view settles the matter, but each says what evidence to look at. The utilitarian asks how many cases a plea procedure actually closes, and at what cost. The retributivist asks how the sentence compares with the offence and whether the admission is reliable.

A rights-based account adds a third strand. It treats the trial as a guarantee that belongs to the accused and to the public, and it allows the guarantee to be waived only on conditions that make the waiver knowing and voluntary. This account tracks the structure of *Chapter XXIII* most closely, because the Chapter *does not forbid the exchange but regulates* how it is made. On this account the test of the Indian scheme is the quality of the waiver.

III. HOW THE PRACTICE REACHED INDIA

The practice grew in American courts largely without a plan. *Albert Alschuler* traced its spread through the nineteenth century, a period of rising caseloads. By the *second half of the twentieth century* the Supreme Court of the United States had accepted it. In *Brady v. United States* the Court upheld a guilty plea entered to avoid a possible death sentence, and in *Santobello v. New York* it called plea bargaining an essential component of the administration of justice. Today

² *Plea Bargaining in the Criminal Justice System*, The Law Inst., <https://thelaw.institute/criminal-justice-processes/plea-bargaining-criminal-justice-system/> (last visited Oct. 5, 2026)

it produces most convictions. In *Missouri v. Frye* the Court noted that 97 per cent of federal convictions and 94 per cent of state convictions result from guilty pleas.³

Indian courts took the opposite view for decades. In *Murlidhar Meghraj Loya v. State of Maharashtra*, a food adulteration case, the Supreme Court condemned the practice and warned that bargained leniency in offences against the community encourages corruption and collusion. *Kasambhai v. State of Gujarat* took the same line against bargaining over sentence. As late as the turn of the century, *State of U.P. v. Chandrika* held that a court cannot dispose of a criminal case on the strength of a bargain.

The Law Commission of India was moving the other way. Its 142nd Report in 1991 proposed concessional treatment for offenders who plead guilty on their own initiative, without any bargaining. The 154th Report of 1996 recommended introducing plea bargaining on an experimental basis, and the 177th Report of 2001 repeated the recommendation. The Malimath Committee on reforms of the criminal justice system took the same view in 2003 and treated plea bargaining as a way to reduce arrears. Parliament acted through the *Criminal Law (Amendment) Act, 2005*, and the new Chapter came into force on 5 July 2006.

The reversal was not a clean one. The old objection was that a bargain struck among the parties invites collusion. The 2005 answer was to put the court at the centre of the process instead of leaving the bargain to the prosecution and the accused. Whether that answer is enough is taken up below.

IV. THE STATUTORY SCHEME

Chapter XXIII of the BNSS keeps the structure of its predecessor, which ran from section 265A to section 265L of the Cr. P.C. This paper cites the BNSS first and gives the old numbering alongside. The scheme is easiest to follow in the order in which a case moves through it.

Section 289 confines plea bargaining to offences punishable with imprisonment of up to seven years. Offences punishable with death, life imprisonment or a term above seven years are outside it. So are offences that affect the socio-economic condition of the country, as the Central Government notifies them, and offences committed against a woman or a child below

³ Amrit Pal Kaur, *Justice in Plea Bargaining—Is It a Coercion to Compromise*, **Manupatra**, <https://docs.manupatra.in/newslines/articles/upload/585db32a-3e8f-4a0f-a580-2d02778b5bfa.pdf> (last visited Oct. 5, 2026).

fourteen. Section 300 excludes persons covered by the *juvenile justice law*. The exclusion of socio-economic offences carries forward the concern voiced in *Murlidhar Meghraj Loya* about bargained leniency in offences against the community⁴.

Only the accused can begin the process. Under *section 290*, the application must be filed within *thirty days of the framing of charge*, with an affidavit stating that the accused applies voluntarily, after understanding the nature and extent of the punishment, and has not previously been convicted of the same offence. *The time limit is new.* The Cr. P.C. named no stage, and writers differed on whether an application could be moved before charge.

The court then *issues notice* to the accused and to the Public Prosecutor or the complainant. It examines the accused *in camera*, away from the other side, to confirm that the application is voluntary. If it is satisfied, it allows up to *sixty days* for the parties to work out a mutually satisfactory disposition, which may include compensation and expenses for the victim. If the application is *involuntary*, or the accused has an earlier conviction for the same offence, the case returns to ordinary trial from the stage at which the application was filed.

When the parties *report a disposition*, the court hears them on the *quantum of punishment* and *may order compensation to the victim*. It may release the accused *on probation or after admonition* where the law allows. If the offence carries a *minimum sentence*, the court may *impose half of it*. If there is no minimum, the court may impose up to *one-fourth of the punishment* provided or extendable for the offence. The time already spent in custody counts towards the sentence.

The judgment is delivered in open court and is final. No appeal lies, except a special leave petition under *Article 136* of the Constitution and a writ petition under *Articles 226 and 227*. What the accused said during the process cannot be used for any other purpose.

Two further provisions complete the picture. If the parties cannot agree on a disposition, the court returns to the ordinary trial from the stage at which the application was filed. And while the process runs, the court keeps the powers it has under the Sanhita over bail, trial and disposal of the case. The first provision lets an accused try the route without staking his defence on it, because what he said stays within the Chapter. The second means that the court can still grant

⁴ *Plea Bargaining And Victim's Rights In The Indian Criminal Justice System » Lawful Legal*, (June 4, 2025), <https://lawfullegal.in/plea-bargaining-and-victims-rights-in-the-indian-criminal-justice-system/>.

bail to an accused who has applied for a plea bargain, which becomes important when the argument turns to custody.

The scheme *differs from the American* one in an important way. The court, not the prosecutor, fixes the sentence, and it does so within a fraction of the statutory range instead of by free negotiation. In the American model the prosecutor's control over charges drives most outcomes. The Indian statute also asks the court to test voluntariness, but it does not say what advice the accused must have received before swearing the affidavit. That gap matters, and it comes up again below.⁵

V. THE CASE FOR PLEA BARGAINING: DELAY IS THE PROBLEM

Delay is the strongest argument for plea bargaining, and in India the figures support it. On 31 December 2025, district and subordinate courts held 4,76,57,328 pending cases, 5.84 per cent more than three years earlier. Pendency fills the prisons. *Prison Statistics India 2022* counted 4,34,302 undertrials, 75.8 per cent of the prison population. The Supreme Court read the right to a speedy trial into Article 21 in *Hussainara Khatoon v. Home Secretary, State of Bihar* more than four decades ago. The undertrial figures suggest that the promise is still unmet.

A prisoner's wait does not end only in a verdict. Malcolm Feeley's study of a lower criminal court gave the point its best-known name: the process is the punishment. For a minor offence, the arrest, the bail conditions, the repeated hearings and the lost wages can cost the accused more than the sentence would. An accused person in that position, who is guilty and knows it, gains from a mechanism that ends the case early on known terms. So does a first-time offender who would otherwise face the whole range of punishment. The one-fourth rule and the probation option give such a person a bounded outcome.

Courts gain too. Every case closed by a plea frees hearing time for contested matters, including the serious offences that lie outside the Chapter. *Gerard Lynch* argued that American criminal justice already works as an administrative system, in which prosecutors investigate and decide most cases informally, and that such a system can be defended if the process is honest. The Indian version is more formal, because a judge examines the accused and sets the sentence.

⁵ *The Law Advice, Plea Bargaining: A Critical Examination of Its Role*
<https://www.thelawadvice.com/articles/plea-bargaining-a-critical-examination-of-its-role-in-modern-criminal-justice>.

Victims can benefit as well. A bargained disposition can include compensation paid while the case is still pending, which a victim might otherwise wait years to see, if a contested trial ends in conviction at all. The accused receives a certain and limited outcome, the victim receives some payment, and the public receives a conviction without a long trial.

Speed matters for the purposes of punishment as well as for the convenience of the court. A sentence *imposed within months of an offence* stays connected to it, in the minds of the offender, the victim and the community. A sentence imposed a decade later may fall on a different person in a different life. Those who defend plea bargaining on *utilitarian grounds* can therefore say that an early, modest conviction serves deterrence and closure better than a late, heavier one.

The Chapter also points to outcomes that prison cannot offer. A court *may release* the accused *on probation or after admonition*, and for a *first-time offender* in a minor case that is often the better result for everyone. It spares the accused the damage that even a short prison term does to work and family, and it takes one more person out of a prison system that *Prison Statistics India 2022 found at 131 per cent of capacity*.

The efficiency case rests on one assumption: that the accused's choice is free. If delay is what pushes the accused to plead, the procedure does not cure the delay. It converts the cost of delay into a conviction.⁶

VI. THE CASE AGAINST: JUSTICE COMPROMISED

The case against plea bargaining starts with the risk to the innocent. *Judge Jed Rakoff*, writing about *American practice*, argued that the gap between the sentence offered for a plea and the sentence threatened after trial can be wide enough to make even an innocent defendant plead guilty. The *Supreme Court of the United States* has accepted that a person may plead guilty while maintaining innocence. In *North Carolina v. Alford* the *defendant feared a death sentence*. In *Bordenkircher v. Hayes* a *prosecutor offered five years for a plea to a charge of uttering a forged cheque of \$88.30 and, when Hayes refused, obtained a recidivist indictment that carried a life sentence. The Court upheld the life term. The case shows the threat of a heavier charge working as a lever.*

⁶ *Plea bargaining in India: A revolutionary step towards judicial efficiency* • law notes by TheLaw.institute (2026) The Law Institute. Available at: <https://thelaw.institute/criminal-justice-processes/plea-bargaining-india-judicial-efficiency/> (Accessed: 05 October 2026).

The Indian scheme does not give prosecutors that power, but it creates a similar gradient. Take an offence punishable with up to three years and carrying no minimum. Under the one-fourth rule, a bargained sentence can run to nine months at most, and the time already spent in custody is set off against it. An accused who has been held *on remand for ten months* can plead, be convicted and walk out. The same accused who insists on trial may stay in custody for a year or more before a verdict. The statute treats the difference as an incentive. For the person in the cell, it looks like a price. The affidavit of voluntariness and the in-camera examination are meant to separate the two. But a judge who asks a man ten months into custody whether he is pleading freely is likely to hear the answer that gets him home.

Voluntariness also depends on advice. In *Missouri v. Frye and Lafler v. Cooper*, decided in 2012, the American Supreme Court held that the constitutional right to effective counsel applies at the plea stage. In one case the lawyer never told the client about a favourable offer, and in the other the lawyer's wrong advice led the client to refuse one. Chapter XXIII has no comparable provision. An accused who relies on a stretched legal aid lawyer may be poorly placed to weigh a bargain that must be decided within thirty days of charge.⁷

The Indian scheme has one safeguard worth noting. In a case begun on a *police report*, the accused is entitled to copies of the report and of the documents on which the prosecution relies before charge is framed. Because an application under *section 290* can come only after charge, the accused who applies has already seen the case against him. That limits the *risk of a plea made in the dark*. It does nothing for the accused who cannot read those papers with a lawyer's eye.

A trial belongs to the public as well as to the accused. It is where the State proves its case openly and where the evidence of police and witnesses is tested. A plea closes that record. *Stephanos Bibas* has argued that plea outcomes in the United States are shaped by factors other than what a trial would find, among them the incentives of lawyers and prosecutors and the psychology of defendants. The *Supreme Court of India* has said that a fair trial serves society and the victim as well as the accused. A bargained disposal skips that public inquiry, and with it any examination of how the evidence was gathered.

⁷ Putra G (no date) *A critical analysis of plea-bargaining*, *International Journal of Criminal, Common and Statutory Law*. Available at: <https://www.criminallawjournal.org/article/4/1-1-4-416.pdf> (Accessed: 05 October 2026).

Compensation raises a different problem. The *Chapter treats payment to the victim as part of a satisfactory disposition, which is fair to the victim*. But an accused who can pay is better placed to secure a settlement than one who cannot, and the sentence discount may then follow money. The concern in *Murlidhar Meghraj Loya* was collusion between the accused and the prosecution. That risk has not gone away. The Public Prosecutor takes part in the disposition, the negotiation happens outside open court, and the record may show little beyond the final figures.

Victims occupy an uncertain place in the scheme. In a case begun on a *police report*, the court gives notice to the Public Prosecutor, the investigating officer, the victim and the accused, and the participants are to work out a disposition that may include compensation to the victim. That is more than an ordinary trial offers a victim, who usually appears only as a witness. But notice is not influence. Much turns on how courts read the word “*mutually*” in “*mutually satisfactory disposition*”. If it covers the victim, an objecting victim can block a bargain. If it covers only the accused and the prosecution, the victim’s role shrinks to notice and compensation, and a victim who has waited years for a trial may reasonably see the plea as the State settling a case that was never only the accused.

Finality adds to the risk. Because *section 295* closes the ordinary appeal, an accused who later claims that the plea was involuntary or badly advised must go to the Supreme Court or a High Court under the Constitution. Most prisoners will not get there. The accused gives up the trial and also the usual means of correcting an error.⁸

VII. CONSTITUTIONAL QUESTIONS

Article 20(3) protects a person accused of an offence from being compelled to be a witness against himself. A guilty plea is the most complete form of self-incrimination, so the question is whether it is compelled. *Nandini Satpathy v. P.L. Dani* read the protection broadly, as reaching the stage of police interrogation and covering *the accused’s right to remain silent*. *Selvi v. State of Karnataka* later tied the *guarantee to personal liberty and the fairness of the trial, and treated voluntariness as the test*. *Chapter XXIII* responds with a voluntariness

⁸ YADAV, B.M. (2025) *Concept of plea bargaining under the criminal justice ...*, *International Journal of Engineering Development and Research* . Available at: <https://rjwave.org/ijedr/papers/IJEDR2503026.pdf> (Accessed: 05 October 2026).

affidavit and an in-camera examination. Those devices follow the logic of *Article 20(3)*. Whether they achieve its purpose in a system with so many undertrials is the open question.

Maneka Gandhi v. Union of India requires that any procedure affecting personal liberty be fair, just and reasonable. Judged by that standard, the Chapter's formal steps are respectable. A court-supervised plea, with a sentence capped at a fraction of the statutory term, is a fair procedure on paper. The harder argument is that the State should not rely on delay it has itself caused to obtain pleas. If speedy trial is part of *Article 21*, as *Hussainara Khatoon* held, then a procedure that works best on those denied a speedy trial invites challenge. It is no answer that the accused chose the plea. He chose it in conditions the State created. This does not make *Chapter XXIII* invalid. It means that a court applying *section 290* should ask about custody and delay and should not rest on the affidavit.⁹

The right to advice has its own constitutional footing. *Article 39A* directs the State to provide free legal aid, and in *M.H. Hoskot v. State of Maharashtra* the *Supreme Court* treated legal aid for a convicted prisoner as part of a fair procedure. The case concerned an appeal against conviction, but its reasoning applies with equal force to the plea stage, where a single signature can end the case. If the State must fund a lawyer to argue an appeal, it is hard to see why it should not fund one to explain a bargain.

A doctrinal question sits behind all this. In *Basheshar Nath v. Commissioner of Income Tax* the *Supreme Court* considered whether a fundamental right can be waived, and a majority of the bench held that it cannot. That sits uneasily with the idea that an accused waives his trial by pleading. The usual answer is that a plea waives no constitutional right but exercises an option the statute gives, and that *Article 20(3)* forbids compulsion, not confession. The answer works only if the plea is voluntary, which returns the argument to the conditions of the choice.

Article 14 raises two questions. The first is whether the classification is reasonable. Limiting the Chapter to offences of up to seven years, and excluding socio-economic offences, offences against women and children below fourteen, and juvenile cases, uses gravity and vulnerability as the basis. That is a defensible ground. The second question is whether the Chapter is applied equally. The agreement of the Public Prosecutor is part of the process, and the Chapter sets out no criteria that bind the prosecutor's decision. Two accused charged with the same offence may

⁹ ATHUL, S. (no date) *PLEA BARGAINING UNDER CRIMINAL LAW AND CRIMINAL JUSTICE ADMINISTRATION*, *INDIAN JOURNAL OF LEGAL REVIEW*. Available at: <https://ijlr.iledu.in/wp-content/uploads/2026/03/V6I313.pdf> (Accessed: 05 October 2026).

find that one prosecutor agrees to a disposition and another does not. That is a risk of arbitrariness, and the Chapter leaves it to be managed by guidelines it does not contain. The constitutional objections therefore go to how the Chapter operates more than to its text.¹⁰

VIII. LESSONS FROM COMPARATIVE EXPERIENCE

The American experience shows what happens when bargaining becomes the main way of resolving cases and stops being the exception. *George Fisher's* history of the practice in Massachusetts found that it spread because it served the interests of judges and prosecutors as much as those of defendants. Because prosecutors control charges and can press for severe alternatives, as *Bordenkircher* shows, the defendant's position depends heavily on how the prosecutor chooses to use that power.

Other countries adopted bargaining later and changed it. *Máximo Langer* has argued that when a procedure is transplanted into a system with different traditions, it is translated and not copied, and it takes on features of the receiving system. *Jenia Turner's* comparative study of plea bargaining outside the United States found that several systems added judicial supervision and limits on sentence discounts that American practice lacks. India's Chapter fits that pattern. A court fixes the sentence, the discount is a fraction of the statutory range, serious offences are excluded, and the accused must swear to voluntariness. These choices answer problems that American courts met first.

Two further examples show the range of designs. In *England and Wales*, the Sentencing Council's guideline reduces a sentence for a guilty plea by up to one-third, with the largest reduction for a plea at the first stage of proceedings and smaller reductions as the case moves towards trial. The discount is published, graded by timing and applied by the judge, so the accused can see the price before he decides. *Germany* legalised negotiated agreements in 2009 through *section 257c* of its *Code of Criminal Procedure*. In 2013, the *Federal Constitutional Court* upheld the provision but insisted on strict enforcement, because agreements were being reached informally outside the statutory rules, and it required transparency, documentation and

¹⁰ Vagyani, D.A. (2024) *Balancing Justice and Efficiency: A Comprehensive Analysis of Plea Bargaining in the Criminal Justice System*, *International Journal of Research and Analytical Reviews (IJRAR)* . Available at: <https://ijrar.com/> (Accessed: 05 October 2026).

judicial oversight. Both examples address problems that this paper raises about India: how to make the price known in advance, and how to keep the negotiation visible.¹¹

The English comparison also exposes the size of the Indian discount. Under *section 293*, an accused with no minimum sentence to face can receive up to one-fourth of the maximum punishment, a reduction of three-quarters measured against the statutory ceiling. English practice caps the reduction at one-third of the sentence the court would otherwise impose. The two figures are not strictly comparable, since sentences after trial often fall well below the statutory maximum. But the width of the gap between the plea sentence and the post-trial risk is what shapes the accused's decision, and a wider gap means stronger pressure to plead.

What the Chapter does not copy is the later American attention to lawyering. Frye and Lafler came from the recognition that the plea stage is where most criminal cases are decided and must therefore be treated as a critical stage of the case. *Chapter XXIII* does not state that lesson.

IX. PLEA BARGAINING IN INDIAN PRACTICE

The figures describe a procedure that exists more on paper than in the courtroom. In 2022, *19,135 of 1,70,52,367 cases ended in plea bargaining, or 0.11 per cent*. The same study counted *119 cases of crimes against women and four cases under the Protection of Children from Sexual Offences Act* among those disposed of by plea, a departure from the statutory exclusions that it flagged.

The scale of the gap is easy to state. If the Chapter had disposed of just *one per cent of the 1,70,52,367 cases tried in 2022*, it would have *closed about 1,70,500 cases*, nearly *nine times the actual figure*. Even that rate would leave most of the docket where it is. Plea bargaining cannot carry the weight that policy debates sometimes place on it. It can matter at the margin, in minor cases where the accused is prepared to admit guilt. The risk is that policy makers, impatient with the backlog, press for higher numbers without asking what the extra pleas would consist of. Before the *BNSS* fixed the window for applications, the practice was also uneven:

¹¹ Roshan, R., Sharma, A. and Shekhar, D. (2026) *Negotiated justice in criminal law*, *INTERNATIONAL JOURNAL OF RESEARCH AND SCIENTIFIC INNOVATION (IJRSI)*. Available at: https://rsisinternational.org/journals/ijrsi/uploads/vol13-iss5-pg637-645-202605_pdf.pdf (Accessed: 05 October 2026).

the stage at which an application could be made was disputed, and *Gautam*'s study reports that in practice pleas were taken after charge.¹²

Part of the explanation lies in what a plea costs. A plea ends in a conviction. Compounding under *section 359 of the BNSS* ends in acquittal. And in *Gian Singh v. State of Punjab*, the Supreme Court held that High Courts may quash proceedings even in some non-compoundable offences of a predominantly private character once the parties have settled. An accused with a settled private dispute has little reason to accept a conviction record when acquittal or quashing is on offer. Plea bargaining remains for the cases in which those routes are shut, and there the accused must live with a conviction and its effects on employment and travel.

Other features of the design may also hold the numbers down. The *thirty-day window* leaves little time to find a lawyer, understand the sentencing arithmetic and arrange compensation. A prosecutor who agrees to a disposition takes a decision that no guideline helps him make. And the process asks the court to supervise a negotiation that it is neither staffed nor trained to conduct. These points follow from the structure of the Chapter. The available data do not test them directly.

The published figures leave several questions open. They do not show how long the accused had been in custody when the plea was entered, how many applications were refused or withdrawn, or how the sentences imposed compared with the statutory limits. Without those figures, no one can say whether pleas cluster among accused who were already close to the end of the sentence they would receive. *Section 290* requires the court to examine voluntariness in each case, but nothing in the public record shows what that examination looked like.

One episode shows what the procedure offers an accused who wants a case to end. In 2020, foreign members of the *Tablighi Jamaat* obtained release from their cases through plea bargaining. A quick and bounded outcome was available, and they took it. The pleas ended the cases. They do not by themselves show that each accused admitted the facts alleged, and nothing in the form of a plea can show that.¹³

¹² Ghosh, Sweta (2024) *CRITICAL ANALYSIS OF PLEABARGAINING IN INDIAN CRIMINAL JUSTICE SYSTEM*, *International Journal of Creative Research Thoughts (IJCRT)*. Available at: <https://ijcrt.org/papers/IJCRT2401425.pdf> (Accessed: 05 October 2026).

¹³ Saini, S. (2023) *Plea Bargaining under Criminal Justice System of India – An Analysis*, *INTERNATIONAL JOURNAL OF RESEARCH CULTURE SOCIETY*. Available at: <https://ijrcs.org/wp-content/uploads/IJRC202412013-min.pdf> (Accessed: 05 October 2026).

X. CONCLUSION

The limits of this paper should be stated. It rests on statutes, judgments, scholarship and published figures. It has no interview or case-file data on how pleas are actually negotiated in Indian courts, so its conclusions about pressure on detained accused are inferences from the text of the Chapter and from the prison data. Those inferences are reasoned, but they remain untested. A study based on court records, observation of hearings and interviews with Public Prosecutors, judges and legal aid lawyers would test them, and the pilot proposed above could generate such material. Until that work is done, the claims here should be read as an argument about risk, not a measurement of harm.

The title offers two verdicts. On the evidence so far, neither describes India. The Chapter cannot be said to delay justice, since it is barely used, and with so few pleas there is no data showing mass compromise either. What exists is a design that deserves cautious approval and conditions that deserve concern. Delay is the premise of the whole debate. It is the State's own failure, and plea bargaining answers it by asking the accused to give up something. Whether that is a fair exchange depends on whether the accused gives it up freely.

If use grows, four pressure points will decide the outcome: custody, advice, prosecutorial discretion and compensation. Each is measurable. A court can ask, in every plea, how long the accused has been in custody and what sentence the bargain produces. The Ministry of Law and Justice can publish the answers. If the data show many accused pleading at the point where their time in custody reaches the length of the bargained sentence, the scheme is working as an exit from detention, and justice is being compromised. If the data show no such pattern, it can be defended as a fair way to clear the minor cases.¹⁴

¹⁴ Hessick, C.B. (2023) *Plea bargains: Efficient or unjust?*, *Judicature*. Available at: <https://judicature.duke.edu/articles/plea-bargains-efficient-or-unjust/> (Accessed: 05 October 2026).

REFERENCES

- ¹ Chauhan AR and Yadav DrR (*Advanced International Journal for Research (AIJFR)*) <<https://www.aijfr.com/papers/2026/3/5702.pdf>> accessed 5 October 2026
- ¹ *Plea Bargaining in the Criminal Justice System*, The Law Inst., <https://thelaw.institute/criminal-justice-processes/plea-bargaining-criminal-justice-system/> (last visited Oct. 5, 2026)
- ¹ Amrit Pal Kaur, *Justice in Plea Bargaining–Is It a Coercion to Compromise*, Manupatra, <https://docs.manupatra.in/newsline/articles/upload/585db32a-3e8f-4a0f-a580-2d02778b5bfa.pdf> (last visited Oct. 5, 2026).
- ¹ *Plea Bargaining And Victim's Rights In The Indian Criminal Justice System » Lawful Legal*, (June 4, 2025), <https://lawfullegal.in/plea-bargaining-and-victims-rights-in-the-indian-criminal-justice-system/>.
- ¹ *The Law Advice*, Plea Bargaining: A Critical Examination of Its Rol <https://www.thelawadvice.com/articles/plea-bargaining-a-critical-examination-of-its-role-in-modern-criminal-justice>.
- ¹ *Plea bargaining in India: A revolutionary step towards judicial efficiency • law notes by TheLaw.institute* (2026) The Law Institute. Available at: <https://thelaw.institute/criminal-justice-processes/plea-bargaining-india-judicial-efficiency/> (Accessed: 05 October 2026).
- ¹ Putra G (no date) *A critical analysis of plea-bargaining*, *International Journal of Criminal, Common and Statutory Law*. Available at: <https://www.criminallawjournal.org/article/4/1-1-4-416.pdf> (Accessed: 05 October 2026).
- ¹ YADAV, B.M. (2025) *Concept of plea bargaining under the criminal justice ...*, *International Journal of Engineering Development and Research* . Available at: <https://rjwave.org/ijedr/papers/IJEDR2503026.pdf> (Accessed: 05 October 2026).
- ¹ ATHUL, S. (no date) *PLEA BARGAINING UNDER CRIMINAL LAW AND CRIMINAL JUSTICE ADMINISTRATION*, *INDIAN JOURNAL OF LEGAL REVIEW*. Available at: <https://ijlr.iledu.in/wp-content/uploads/2026/03/V6I313.pdf> (Accessed: 05 October 2026).
- ¹ Vagyan, D.A. (2024) *Balancing Justice and Efficiency: A Comprehensive Analysis of Plea Bargaining in the Criminal Justice System*, *International Journal of Research and Analytical Reviews (IJRAR)* . Available at: <https://ijrar.com/> (Accessed: 05 October 2026).
- ¹ Roshan, R., Sharma, A. and Shekhar, D. (2026) *Negotiated justice in criminal law*, *INTERNATIONAL JOURNAL OF RESEARCH AND SCIENTIFIC INNOVATION (IJRSI)* . Available at: https://rsisinternational.org/journals/ijrsi/uploads/vol13-iss5-pg637-645-202605_pdf.pdf (Accessed: 05 October 2026).
- ¹ Ghosh, Sweta (2024) *CRITICAL ANALYSIS OF PLEABARGAINING IN INDIAN CRIMINAL JUSTICE SYSTEM*, *International Journal of Creative Research Thoughts (IJCRT)*. Available at: <https://ijcrt.org/papers/IJCRT2401425.pdf> (Accessed: 05 October 2026).
- ¹ Saini, S. (2023) *Plea Bargaining under Criminal Justice System of India – An Analysis*, *INTERNATIONAL JOURNAL OF RESEARCH CULTURE SOCIETY*. Available at: <https://ijrcs.org/wp-content/uploads/IJRCS202412013-min.pdf> (Accessed: 05 October 2026).
- ¹ Hessick, C.B. (2023) *Plea bargains: Efficient or unjust?*, *Judicature*. Available at: <https://judicature.duke.edu/articles/plea-bargains-efficient-or-unjust/> (Accessed: 05 October 2026).